

REPORT - PLANNING COMMISSION MEETING
November 6, 2003

Project Name and Number: Korean BBQ Beer and Wine (PLN2004-00043)

Applicant: Fang Ming Song

Proposal: To consider an application for a Conditional Use Permit to allow sales and on-site consumption of beer and wine.

Recommended Action: Approve, based on Findings and subject to Conditions.

Location: 47894 Warm Springs Blvd.

Assessor Parcel Number(s): 519-1194-074-10.

Area: Lot size: 184,259 square feet, Tenant space: 1,380 square feet.

Owner: Eaton Pacific, Inc.

Environmental Review: This project is exempt from the California Environmental Quality Act (CEQA) per section 15301, Existing Facilities.

Existing General Plan: CN, Neighborhood Commercial

Existing Zoning: C-N, Neighborhood Commercial District

Existing Land Use: Shopping Center

Public Hearing Notice: Public hearing notification is applicable. A total of 123 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Acoma Way, Camphor Avenue, Fusteria Court, Gable Drive, Hammond Avenue, Haycock Court, Lyra Street, Mardis Street, McDuff Avenue, Shato Place and Warm Springs Boulevard. The notices to owners and occupants were mailed on October 20, 2003. A Public Hearing Notice was delivered to The Argus on October 20, 2003, to be published by October 23, 2003.

Background and Previous Actions: The site is located at the Warm Springs Galleria Shopping Center off of Warm Springs Boulevard and Gable Drive. The shopping center was developed in 1986 and currently contains various retail businesses including, but not limited to convenience store, dry cleaner, tutoring school, day care, martial arts academy, nail salon, hair salon, medical office, pizza salon, delicatessen, liquor store, Chinese restaurant, Japanese restaurant and Indian restaurant. The previous tenant of the project location was also a Korean restaurant.

Project Description: The applicant is requesting approval for a Conditional Use Permit to allow sale and consumption of beer and wine at an existing restaurant located in the Galleria Shipping Center. The hours of operation are proposed to be 11:00 A.M. to 12:00 A.M. midnight, Tuesday through Friday, 12:00 P.M. to 12:00 A.M. midnight Saturday and Sunday, and closed on Monday. This restaurant serves Korean food including but not limited to Korean Barbeque and noodles and has 50 seats. There is an outdoor seating area with 12 seats. No beer or wine will be served in the outdoor area.

Project Analysis:

General Plan Conformance: The existing General Plan Land Use designation for the project site is CN, Neighborhood Commercial. The proposed project is consistent with the existing General Plan Land Use designation for the project site because the General Plan allows eating establishments within the Neighborhood Commercial District Land Use designation. The following General Plan Goals, Objectives, and Policies are applicable to the proposed project:

- **Fundamental Goal F-8:** A Diversity of Residential, Recreational, Cultural, Employment, and Shopping Opportunities.

Analysis: The eating and drinking establishment provides diverse recreational and cultural opportunities.

- **Land Use Goal LU 2.23:** Allowed Uses – Eating and Drinking Establishments: Eating establishments are permitted. Drinking establishments and drive-through restaurants are discouraged unless the drive-through can be oriented so as to be compatible with the character and pedestrian orientation of the shopping area.

Analysis: The restaurant is an existing eating establishment and the approval of beer and wine consumption will enhance the dining experience. The restaurant is not considered a drinking establishment.

Zoning Regulations: The project site currently has a zoning designation of C-N, Neighborhood Commercial District. The sale and consumption of beer and alcohol for eating places with more than 30 seats or open after midnight is a conditionally permitted use within the Neighborhood Commercial District [Fremont Municipal Code Section 8-21003(a)]. The proposed restaurant will service both the immediate commercial users, as well as the surrounding neighborhoods.

To receive a State permit to serve beer and wine, the applicant must meet the requirements of the California State Alcohol Beverage Control Board (ABC) and requirements of local zoning. Based on regulation by ABC and the provision of adequate on-site parking for all businesses in the shopping center, a restaurant serving beer and wine is not anticipated to create an adverse impact on the surrounding commercial and residential uses.

Parking: The shopping center currently provides 238 parking spaces. The requirements for parking spaces for a shopping center per Fremont Municipal Code Section 8-22003(b)(4) is one parking space per 250 sq. ft. of gross leasable area. The building size of the shopping center is 59,683 sq. ft. and requires 238 parking spaces and meets the parking requirement for the shopping center for all uses. The inclusion of beer and wine sales and on-site consumption at the existing restaurant is not anticipated to increase parking at this shopping center and there is no difference in parking standards for restaurants serving beer and wine in the Fremont Municipal Code.

Circulation/ Access Analysis: The project site is accessible via both Warm Springs Boulevard and Gable Drive with three 28-foot wide driveways. The commercial shopping center provides sufficient on-site circulation.

Enclosures: Exhibit "A" Site Plan and Floor Plan
Exhibit "B" Findings and Conditions of Approval for PLN2004-00043

Informational: Applicant Statement of Proposed Operation for Korean BBQ, dated August 25, 2003

Exhibits: Exhibit "A" Site Plan and Floor Plan
Exhibit "B" Findings and Conditions of Approval for PLN2004-00043

Recommended Actions:

1. Hold public hearing.
2. Find PLN2004-00043 is exempt from CEQA per Section 15301, Existing Facilities.
3. Find PLN2004-00043 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Fundamental Goals and Land Use Chapter as enumerated within the staff report.
4. Approve PLN2004-00043, as shown on Exhibit "A", subject to Findings and Conditions on Exhibit "B."

Exhibit "B"
Findings and Conditions of Approval for PLN2004-00043
Korean BBQ Beer & Wine – Conditional Use Permit
47890 Warm Springs Blvd.

Findings:

1. The site is suitable and adequate for the proposed restaurant serving beer and wine use because it is a well-developed commercial shopping center site.
2. The proposed use is consistent with the General Plan because the proposed use contributes to the goal of establishing a diversity of recreational and cultural opportunities.
3. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because the site has good access from Warm Springs Blvd. and there is sufficient parking at the existing shopping center.
4. The proposed use would not have a substantial adverse economic effect on nearby uses because the Korean restaurant, serving beer and wine, is intended to serve both immediate surrounding commercial uses and the nearby residential neighborhood.
5. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because their activities will take place entirely within their leased tenant space.

General Conditions:

1. The use shall operate in conformance with Exhibit "A". (Site Plan, Floor Plan)
2. The applicant shall comply with all regulations of the California State Alcohol Beverage Control Authority regarding the service of beer and wine.
3. The applicant shall install a key box (Knox brand) located outside of the building tenant space and provide keys to the Fire Department so they may gain access. Application can be obtained at Fire Administration office located at 3300 Capitol Avenue.
4. The restaurant must be designed with contained wash areas for cleaning mats, equipment and containers. The wash area must be covered or designed to prevent runoff onto or from the area. The area shall not discharge to the storm drains; drains should connect to the sanitary sewer subject to review and approval of the Union Sanitary District. Signs must be posted indicating wash areas. Sanitary connections are also subject to the review and approval of the Union Sanitary District.
5. The owner and/or developer is responsible for ensuring that all staff comply with Best Management Practices to prevent urban runoff pollution. Failure to comply with the Best Management Practices can result in the issuance of correction notices, citations, and/or fines. Please refer to the enclosed Restaurant Best Management Practices handbook.
6. Hours of operation for the restaurant are to be conducted from 11:00 A.M. to 12:00 A.M. Tuesday through Friday, 12:00 P.M. to 12:00 A.M. Saturday and Sunday and closed Monday. Minor amendments (including hours of operation) to this conditional use permit may be approved by the Assistant City Manager if it is determined that the overall intent is consistent with the conditions of approval.

7. If the Assistant City Manager finds evidence that conditions of approval have not been fulfilled or that the use has resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent proximate property, or has a substantial adverse impact on public facilities or services, the Assistant City Manager may refer the use permit to the Planning Commission for review. If, upon such review, the Commission finds that any of the results have occurred, the commission may modify or revoke the use permit.

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